IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

WEDNESDAY, THE 21ST MARCH 2007 / 30TH PHALGUNA 1928

WP(C).No. 6197 of 2006(K)

PETITIONER:

THE PAVARATTY SERVICE CO-OPERATIVE BANK LTD., NO.3918, PAVARATTY P.O. THRISSUR, REPRESENTED BY ITS SECRETARY SMT.PARVATHY ANTHARJANAM.

BY ADV. SRI.N.RAGHURAJ
SMT.K.AMMINIKUTTY

RESPONDENTS:

1. **THE JOINT REGISTRAR (GENERAL) OF CO-OPERATIVE SOCIETIES , OFFICE OF THE JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES, DISTRICT COLLECTORATE & COURT COMPLEX, AYYANTHOLE P.O. THRISSUR.**

2. **SMT.A.V.CHANDRIKA, BRANCH MANAGER, THE PAVARATTY SERVICE CO-OPERATIVE BANK LTD., NO.3918, PAVARATTY P.O. THRISSUR.**

3. **THE ASSISTANT REGISTRAR OF CO-OPERATIVE SOCIETIES OFFICE OF THE REGISTRAR OF CO-OPERATIVE SOCIETIES, AYYANTHOLE P.O. THRISSUR.**

4. **THE STATE OF KERALA, REPRESENTED BY CHIEF SECRETARY, SECRETARIAT, THIRUVANANTHAPURAM.**

BY ADV. SRI.P.RAMAKRISHNAN
BY GOVERNMENT PLEADER SRI. P.K.RAVIKRISHNAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 21/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C) NO.6197/2006

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1:- COPY OF THE ORDER NO.7611/97 DT.20.1.98 ISSUED BY THE 1ST RESPONDENT TO THE PETITIONER.

EXT.P2:- COPY OF THE ORDER NO.121/1994 DT.18.10.96 ISSUED BY THE 3RD RESPONDENT TO THE PETITIONER.

E.XT.P3:- COPY OF THE ORDER NO.803/1997 DT.10.2.98 ISSUED BY THE 3RD RESPONDENT TO THE PETITIONER.

EXT.P4:- COPY OF THE JUDT. DT.28.5.02 IN OP. NO. 14759/96 OF THIS HONOURABLE COURT.

EXT.P5:- COPY OF THE JUDGMENT DT.18.10.04 IN OP. NO.23440/02 OF THIS HON'BLE COURT.

EXT.P6:- COPY OF THE ORDER PASSED BY THE 1ST RESPONDENT DT.15.12.05.

RESPONDENTS EXHIBITS

EXT.R2(a):- COPY OF THE ORDER DT.15.7.95 OF THE 1ST RESPONDENT.

EXT.R2(b):- COPY OF THE RESOLUTION DT.29.9.95 PASSED BY THE PETITIONER.

EXT.R2(c):- COPY OF THE REPRESENTATION DT.10.12.97 SUBMITTED BY THE PETITIONER BEFORE THE 1ST RESPONDENT.

EXT.R2(d):- COPY OF THE JUDGMENT IN OP. NO.7030/98 .

EXT.R2(e):- COPY OF THE ORDER DT.18.10.96 OF THE 3RD RESPONDENT.

EXT.R2(f):- COPY OF THE COMMUNICATION RECEIVED BY THE 2ND RESPONDENT FROM THE PETITIONER AND THE ENCLOSED CALCULATION SHEET.

EXT.R2(g):- COPY OF THE JUDGMENT DT.28.5.02 IN OP.14759/98.

EXT.R2(h):- COPY OF THE LETTER DT.29.7.02 AND THE ENCLOSED CALCULATION SHEET ISSUED BY THE PETITIONER.

EXT.R2(i):- COPY OF THE COMPLAINT DT.3.8.02, SUBMITTED BY THE 2ND RESPONDENT BEFORE THE 3RD RESPONDENT.

EXT.R2(j):- COPY OF THE JUDGMENT DT.18.10.04 IN OP. 23440/02.

EXT.R2(k):- COPY OF THE MEMO DT.14.10.04 ISSUED BY THE PETITIONER.

EXT.R2(l):- COPY OF THE REPRESENTATION DT.15.10.04 SUBMITTED BY THE 2ND RESPONDENT BEFORE THE PETITIONER.

EXT.R2(m):- COPY OF THE JUDGMENT DT.14.1.05 IN WP(C) NO.30677/04.

/TRUE COPY/

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S. SIRI JAGAN, J.

W.P.(C)NO. 6197 OF 2006

DATED THIS THE 21st DAY OF MARCH, 2007

JUDGMENT

The petitioner is a Co-operative Bank. The Society promoted the 2nd respondent to the posts of Branch Manager and Chief Accountant, although she did not possess the requisite qualifications prescribed under the Kerala Co-operative Societies Rules for promotion to such posts. After she was so promoted as Branch Manager, the Bank passed a resolution deciding to exempt the 2nd respondent from possessing the qualifications required for such promotion. The same was forwarded to the Joint Registrar for approval. In the post of Branch Manger ultimately, the Joint Registrar granted approval for exemption from qualifications for the 2nd respondent with effect from 4.01.1995. It appears that the 2nd respondent drew salary in the post of Branch Manager from 27.7.1994 to 4.1.95 also since she was promoted on 27.7.1994. The excess salary paid for the above period in the post of Branch Manager was directed to be recovered from the 2nd respondent as per orders of the Joint Registrar. Subsequently, the 2nd respondent was promoted to the post of Chief Accountant with effect from 17.4.95. However, the decision to grant relaxation in

qualification for promotion to the post of Chief Accountant for the 2nd respondent was taken only on 29.9.95, which was forwarded to the Joint Registrar for approval. By Ext.P1, the same was returned by the Joint Registrar stating that the matter requires the approval of the Registrar and therefore the same may be resubmitted to the Registrar through the Asst. Registrar with all proper documents. In Ext.P1, it was further directed that before resubmitting the application, the direction of the Asst. Registrar by Ext.P2 to recover the excess salary drawn by the 2nd respondent in the post of Branch Manger should be promptly complied with.

2. The spate of litigation followed. Every time this Court directed the appropriate authority to consider and pass orders on the same. Ultimately, by Ext.R2(g) judgment this Court directed the 2nd respondent to refund the salary drawn by her in the post of Branch Manager from 27.7.94 till 4.1.95 in five equal monthly instalments starting from July, 2002 at the rate indicated in the resolution passed by the petitioner – Bank dated, 29.7.98. The Bank was also directed to take up the case of promotion of the 2nd respondent which were held up for the reason that the said original petition was pending. Orders in this respect were also directed to be passed expeditiously.

3. In the meantime, the 2nd respondent was transferred to another branch against which the 2nd respondent filed Ext.R2(l)

representation. Thereafter, she filed W.P.(C)No.30677/04 in which by Ext.R2(m) judgment this Court directed the Joint Registrar to consider Ext.R2(l) representation and pass appropriate orders pursuant thereto. The Joint Registrar passed Ext.P6 order giving three directions. The first was to reconsider the decision of the petitioner Bank to transfer the 2nd respondent to Maruthayoor Branch. That issue no longer survives, since the 2nd respondent was allowed to continue in the earlier branch by virtue of interim order of this Court and she is due to retire in two months' time. The other two directions were, one to the Asst. Registrar and the other to the petitioner – Bank. The direction to the Asst. Registrar was to compute the amounts due from the 2nd respondent within two months. The third direction was to the Bank to forward the decision to give relaxation in qualification to the 2nd respondent for promotion to the post of Chief Accountant. However, contrary to Exts.P1 and P2 directions, the Joint Registrar held that the decision of the bank applying for relaxation in the qualification for promotion to the 2nd respondent need not wait till the recovery of the excess amount drawn by the 2nd respondent in the post of Branch Manger.

3. The learned counsel for the 2nd respondent submits that the 2nd respondent is being unnecessarily harassed. She would submit that the amount now stated by the petitioner as due from the 2nd respondent is inflated and does not represent the five

months' excess salary due from her. She would submit that the instalments itself comes to more than what is due to her as salary per month itself and this is totally unjust. The learned counsel for the 2nd respondent would also submit that there is absolutely no reason for the petitioner – Bank to be aggrieved by Ext.P6 at all.

4. After consideration of the rival contentions, I am of opinion that the whole thing is much ado about nothing . I am also unable to understand why Ext.P6 order passed on 15.12.05 directing the Asst. Registrar to compute the amount due from the 2nd respondent to the Bank within two months has not been complied with even after more than a year. No explanation is forthcoming from the learned Government Pleader appearing for the 3rd respondent – Asst. Registrar in this regard. In the above circumstances, I dispose of this writ petition with the following directions.

The 3rd respondent shall comply with the directions in Ext.P6 to compute the amounts due from the 2nd respondent to the petitioner Bank positively within one month from the date of receipt of a copy of this judgment and intimate the result to the petitioner and the 2nd respondent. I make it clear that the 3rd respondent – Asst. Registrar shall do it positively within the said period without applying for extension of time. No such application would be entertained by this Court, in view of the fact that already more than

a year has elapsed and he had not done anything regarding that from 15.12.05 till date. The Bank shall also take a decision regarding the relaxation in qualifications of the 2nd respondent for promotion to the post of Chief Accountant and forward the same to the Joint Registrar within two weeks from today. However, it would be open to the Society to withhold such of the amount as is found due from the 2nd respondent from the retirement benefits due to the 2nd respondent till the same is paid off. I make it clear that my observations in this judgment shall not taken as any decision on merits regarding the amounts due from the 2nd respondent to the Bank. Whatever observation I have made about the quantum or the period is only for the purpose of disposal of the writ petition and not for deciding the quantum of amount, if any due, from the 2nd respondent to the Bank . It is for the 3rd respondent to compute the same in accordance with the actual facts and figures.

The writ petition is disposed of as above.

S. SIRI JAGAN, JUDGE

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